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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

EPIC GAMES, INC.,

Plaintiff,

v.

APPLE INC.

Defendant.

Case No. 4:20-cv-05640-YGR-TSH

**REDACTED EXHIBIT A TO
 DECLARATION OF SHANE M. PALMER
 IN SUPPORT OF NON-PARTY SPOTIFY
 USA INC.'S ADMINISTRATIVE
 MOTION TO SEAL PORTIONS OF
 SPOT-EPIC-00000925 AND
 SPOT-EPIC-00001023**

**REDACTED VERSION OF DOCUMENT
 SOUGHT TO BE SEALED**

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CONFIDENTIAL TREATMENT REQUESTED BY SPOTIFY

June 11, 2020

Via E-mail

Brian Wang, Esq.
Office of the Attorney General of California,
Antitrust Section,
455 Golden Gate Avenue, Suite 11000,
San Francisco, CA 94102.

Re: Investigation of Market for Mobile Device Application Payments

Dear Mr. Wang:

I write on behalf of our client Spotify USA Inc. ("Spotify") in further response to the request during your call with Harry Clarke on March 30, 2020, for copies of Spotify's submissions to the European Commission concerning its antitrust complaint against Apple Inc. ("Apple").

A production of documents bearing volume number SPOT-CAAG 002 is being sent to you today in an encrypted .zip folder via file transfer protocol.¹ The production includes a response by Spotify AB, together with annexes, to a Request for Information by the European Commission (bearing production numbers SPOT-CAAG-00000804 through SPOT-CAAG-00000828), which were submitted to the European Commission on May 14, 2020 (the "May 14 Submission"). The production also includes a supplement to the May 14 Submission (bearing production numbers SPOT-CAAG-00000829 through SPOT-CAAG-00000830), which was prepared by

¹ The production is passcode protected, and we will provide the passcode separately by e-mail.

Brian Wang, Esq.

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Compass Lexecon and submitted to the European Commission on June 9, 2020 (the “June 9 Submission”).

The May 14 Submission describes how Apple anti-competitively raises Spotify’s costs of converting users on iOS devices to Spotify’s Premium audio streaming service. Among other things, the May 14 Submission explains why Spotify was forced to pass on the IAP tax to users during the period when Spotify offered in-app conversions on iOS between June 2014 and May 2016 by increasing the price of a Premium subscription on iOS; and that after disabling in-app conversions on iOS, [REDACTED]

[REDACTED] As a result of this need to increase paid marketing expenditures in order to acquire iOS subscribers that Spotify otherwise could have converted using in-app messaging, Spotify estimates that [REDACTED]

[REDACTED] Moreover, the need to have separate iOS-specific communication and marketing materials to comply with Apple’s marketing restrictions forces Spotify to pay additional fees for advertising agencies and materially increases Spotify’s personnel hours for its internal engineering and marketing teams. The May 14 Submission then summarizes established economic literature and explains how the diminished cash flows resulting from Spotify’s lower subscriptions and higher costs reduce Spotify’s ability and incentives to innovate, which in turn reduces incentives to innovate for Apple and other rivals in the music streaming industry.

The production also includes a response by Spotify AB, together with annexes, to another Request for Information by the European Commission (bearing production numbers SPOT-CAAG-00000699 through SPOT-CAAG-00000803), which were submitted to the European Commission on February 14, 2020 (the “February 14 Submission,” and together with the May 14 Submission and the June 9 Submission, the “Materials”). The February 14 Submission only recently came to Sullivan & Cromwell’s attention and was thus inadvertently omitted from our prior production. Please note that we have intentionally excluded Confidential Annex 39 to the February 14 Submission from this production because it comprises structured data used to generate the results presented in Compass Lexecon’s report dated October 18, 2019, submitted with the Rebuttal of Spotify AB to the Reply by Apple Inc. Before the European Commission (and produced to you on April 6, 2020, bearing production numbers SPOT-CAAG-00000551 through SPOT-CAAG-00000632). If you believe the information contained in Confidential Annex 39 to the February 14 Submission would be useful to you, please let us know and we will be happy to arrange a call to determine a production format that would be useful to you.

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To assist with your review, an index of the Materials is included as Appendix A. The Materials are being produced in the same format in which they were submitted to the European Commission. If you would like to receive the Materials in a different format, please let us know.

* * *

The information set forth in this letter and the Materials contain confidential and proprietary commercial information concerning Spotify and its affiliates that Spotify actually and customarily treats as private. Spotify understands that, as you indicated in your email to Harry Clarke dated April 1, 2020, the Attorney General of California, his deputies, employees, and successors (the "Attorney General") will treat the information set forth in this letter and the Materials as confidential (and not open for public inspection) under applicable California law (including, without limitation, California Government Code §§ 11181 and 11183). Spotify requests that the Attorney General not disclose this information to any person or entity except as expressly provided by California statute, subject to any express waivers by Spotify.

If this letter or any of the Materials become the subject of any information or discovery request, please contact me at (202) 956-7575, and we will provide further information in support of Spotify's request for confidential treatment.

* * *

If you have any questions about the matters addressed in this letter, please do not hesitate to let us know. We appreciate the Attorney General's attention to this important matter. We are happy to assist the Attorney General in any other way that you or your team might find helpful.

Sincerely,

/s/ Renata B. Hesse

Renata B. Hesse

(Attachment)

CONFIDENTIAL TREATMENT REQUESTED BY SPOTIFY

Appendix A – Index of Materials

File Name	Begin Bates	End Bates
Spotify – Response to RFI dated 10.01.2020 – CONFIDENTIAL CONTAINS BUSINESS SECRETS.pdf	SPOT-CAAG-00000699	SPOT-CAAG-00000742
Confidential Annex 1.xlsx	SPOT-CAAG-00000743	SPOT-CAAG-00000743
Confidential Annex 2.1.xlsx	SPOT-CAAG-00000744	SPOT-CAAG-00000744
Confidential Annex 2.2.xlsx	SPOT-CAAG-00000745	SPOT-CAAG-00000745
Confidential Annex 2.3.xlsx	SPOT-CAAG-00000746	SPOT-CAAG-00000746
Confidential Annex 3.xlsx	SPOT-CAAG-00000747	SPOT-CAAG-00000747
Confidential Annex 4.1.xlsx	SPOT-CAAG-00000748	SPOT-CAAG-00000748
Confidential Annex 4.2.xlsx	SPOT-CAAG-00000749	SPOT-CAAG-00000749
Confidential Annex 5.1.xlsx	SPOT-CAAG-00000750	SPOT-CAAG-00000750
Confidential Annex 5.2.xlsx	SPOT-CAAG-00000751	SPOT-CAAG-00000751
Confidential Annex 6.pdf	SPOT-CAAG-00000752	SPOT-CAAG-00000756
Confidential Annex 19.pdf	SPOT-CAAG-00000757	SPOT-CAAG-00000758
Confidential Annex 20.1.xlsx	SPOT-CAAG-00000759	SPOT-CAAG-00000759
Confidential Annex 20.2.xlsx	SPOT-CAAG-00000760	SPOT-CAAG-00000760
Confidential Annex 25.xlsx	SPOT-CAAG-00000761	SPOT-CAAG-00000761
Confidential Annex 26.1.pptx	SPOT-CAAG-00000762	SPOT-CAAG-00000773
Confidential Annex 26.2.pptx	SPOT-CAAG-00000774	SPOT-CAAG-00000777
Confidential Annex 26.3.pptx	SPOT-CAAG-00000778	SPOT-CAAG-00000783
Confidential Annex 37.pdf	SPOT-CAAG-00000784	SPOT-CAAG-00000802
Confidential Annex 42.xlsx	SPOT-CAAG-00000803	SPOT-CAAG-00000803
AT.40437 – Spotify’s Response to RFI of 23 April – CONFIDENTIAL.pdf	SPOT-CAAG-00000804	SPOT-CAAG-00000806
AT.40437 – Spotify’s Response to RFI of 23 April Annex 1 – CONFIDENTIAL.pdf	SPOT-CAAG-00000807	SPOT-CAAG-00000827

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Appendix A – Index of Materials

File Name	Begin Bates	End Bates
AT.40437 -- Spotify's Response to RFI of 23 April Annex 2 -- CONFIDENTIAL.xlsx	SPOT-CAAG-00000828	SPOT-CAAG-00000828
Further information on additional costs imposed by Apple's conduct -- CONFIDENTIAL.pdf	SPOT-CAAG-00000829	SPOT-CAAG-00000830

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